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S E C R E T SECTION 01 OF 02 MANILA 000963

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STATE FOR EAP/MTS, EB/TPP
STATE PASS TO USTR FOR BWEISEL AND DKATZ
MCC FOR VP BRENT
USDOC FOR SBERLINGUETTE
USDOC PASS TO USPTO FOR PFWLER

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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [KCOR](#) [RP](#)
SUBJECT: CORRUPTION ALLEGATIONS AGAINST NEW CUSTOMS
COMMISSIONER

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Classified By: ROBERT LUDAN FOR REASONS 1.4(B) AND (D)

SUMMARY

11. (S) Napoleon Morales, who was appointed as the new Customs Commissioner on January 2, 2006, has two corruption investigations pending against him according to Attorney Eden Dandal, the former head of the Customs Intellectual Property (IP) Unit. Just one day after assuming office, Morales moved quickly to reassign the two officials who shared responsibility for internal investigations, including Dandal, a 20-year veteran of the Bureau of Customs (BOC). Dandal reported that his unit had been in the process of investigating two 2005 alleged corruption cases against Morales when the reassignments were made. Since Morales now has a close staffer, Willie Sarmiento, heading up the unit, Dandal indicated that it is likely the investigations will dead-end. Morales publicly acknowledges the importance of fighting corruption and is engaged in putting together an anti-corruption proposal as part of the GRP's Threshold Proposal for the Millennium Challenge Account.

NEW COMMISSIONER CORRUPT?

12. (S) In a February 8 meeting with Econoff, Eden Dandal, the former head of the IP Unit, said that once he found out Napoleon Morales had been appointed Customs Commissioner, his transfer orders came as no great surprise. Dandal commented on two graft cases filed against Morales in 2005 when he was the District Collector at the Port of Batangas, which Dandal was in the process of investigating prior to being relieved of duty. Both cases involve millions of pesos that apparently disappeared.

13. (S) The first case was the importation of a bulk shipment of cornstarch from the United States. The correct rate of duty for the shipment should have been seven percent, but the customs declaration listed the duty as three percent, which resulted in a difference of about 12 million pesos (approximately USD 230,000). The importer claimed to have paid the seven percent duty, which tipped off the Chief of the Anti-Smuggling Task Force and resulted in confiscation of the shipment.

14. (S) The second case involved a shipment of wheat flour from Europe, which also should have had a seven percent duty applied, but was declared at three percent, resulting in a difference of about 10 million pesos (approximately USD 192,000). Again, the importer claimed that he had actually paid the seven percent duty, which alerted the inspector and resulted in confiscation. Since both incidents occurred when Morales was District Collector, Dandal pointed out that the shipments could not have been released without Morales' signature, which implicated him in the alleged crimes. Dandal added that the proper procedure for such a discrepancy would have been to require the shipments to be chemically tested. The three percent duty rate is for food for human consumption while animal feed is taxed at the seven percent rate. If the shipments had been tested, it would have been easy to determine what should have been the correct duty rate. Dandal shared investigative responsibility with Cezar Tugday and both of them found themselves reassigned one day after Morales assumed office as the Customs Commissioner.

15. (S) Dandal said that he had had two other run-ins with Morales in 2005. Both cases involved questionable shipments whose values appeared to be under-declared. When Dandal held up the shipments for further investigation, he was approached by key staff members of Morales who demanded release of the shipments. When he did not comply, he was reprimanded by Morales for not "honoring the requests." The shipments were later released under orders of his superior.

16. (S) Dandal said that what is surprising is that Morales was appointed to the top Customs position despite the fact that he had two open investigations pending against him. Normally, an appointment would involve a background investigation and Dandal said that he could not understand why these cases would not have been considered. He added that there are rumors circulating that Morales is connected to several powerful individuals including Congressman

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Prospero Pichay, Senator Ralph Recto, Executive Secretary Eduardo Ermita, and First Gentleman Mike Arroyo. Dandal added that money might have exchanged hands to guarantee the appointment, emphasizing that these are rumors.

17. (S) When asked about the general state of affairs at Customs, Dandal said that "corruption goes all the way to the top, but that there are many good people." He said that the system is the problem and leadership is often disappointing. Powerful people often intervene and ask for favors; if you do not comply, you find yourself removed. According to Dandal, the answer is to destroy the present structure and start over. "People should be trained to stand and speak for the truth." Dandal added that he spent some time with his successor, Attorney Willie Sarmiento, and provided him with the IP Unit's mandate, with the hope that Sarmiento would "do the right thing and not succumb to pressure from above." Dandal said that the history of these cases is merely a track record and not necessarily an indication of future direction. "People are dynamic; we will see which way the wind will blow."

18. (SBU) Attorney Sarmiento who replaced Dandal, worked directly for Commissioner Morales for nearly two years in Batangas. Sarmiento said of Morales: "he is a very good man. He will not allow any violations of any kind. Violators within Customs will be given a dose of their own medicine."

19. (U) In the most recent survey of corruption conducted by the "Social Weather Station," a reputable NGO that receives support from USAID and the Asia Foundation, the Bureau of Customs received the lowest score by far out of 26 government institutions surveyed for anti-corruption efforts. While the Securities and Exchange Commission and Supreme Court received scores of 55 and 48, respectively, Customs scored negative 75, just below the Bureau of Internal Revenue at negative 59.

Customs has achieved this distinction for several consecutive years. Former Ombudsman Simeon Marcelo has pointed out to us that losses in the Bureau of Customs cost the government as much as 100 billion pesos annually -- more than the expected revenues from the new value-added tax.

COMMENT

¶10. (S) The corruption allegations against Morales are disturbing, but it is unlikely that the cases will be resolved. The reassignment of the two officials responsible for internal investigations and therefore the two pending cases, is a clear warning message. Morales was appointed just a little over a month ago as Customs Commissioner and it remains to be seen what he will do with the job. Embassy has been encouraging Morales to put forth an anti-corruption proposal as part of the GRP's Millennium Challenge Threshold Plan. The new MCC Threshold Plan, drawn up the GRP, does include a section on fighting corruption in the Bureau of Customs through provision of a database and specialized training. Despite the corruption allegations against Morales, we know that it is vital to engage Customs on anti-corruption if their revenue situation is to improve. The MCC program will require careful accountability and performance criteria to help ensure proper management of resources.
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